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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/425,833	10/21/1999	STACY J. MORSE	H043-001	1084

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WELLS ST. JOHN P.S.  
601 W. FIRST AVENUE, SUITE 1300  
SPOKANE, WA 99201

EXAMINER

HONG, STEPHEN S

ART UNIT	PAPER NUMBER
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2178

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/425,833

Applicant(s)

MORSE ET AL.

Examiner

Stephen S. Hong

Art Unit

2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-10 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

1. This action is responsive to the following communications: amendment filed on 10/16/03 to the application filed on October 21, 1999.
2. In the amendment claim 11 has been canceled and claims 13-16 have been added. Accordingly, claims 1-10 and 12-16 are pending. Claims 1, 6, 8, 9 and 12 are independent claims
3. The rejection of claims 3 and 11 under 35 U.S.C. 112, second paragraph, as being indefinite has been withdrawn in view of the amendment.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-10 and 12 remain rejected and claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones, U.S. Pat. No. 6,517,353 B1, 2/03 in view of Realtor.com web site, <http://web.archive.org/web/19990429142544/http://realtor.com> (hereinafter "Realtor.com"), April 29, 1999, pp. 1-14 and Sutcliffe et al., U.S. Pat. No. 6,253,216 B1, 6/01.

It should be noted that the Realtor.com web site used here is an archived version of the website at [www.realtor.com](http://www.realtor.com) as it looked on April 29, 1999. The archive agent is called "archive.org" which archives the contents of the Internet continuously to preserve the history of Internet content. More information is available about the archival at [www.archive.org](http://www.archive.org).

As per independent claim 1, Jones teaches the following claimed steps of a method in a computer system for providing an electronic template for inputting and providing a virtual tour over a public communication network:

- making available to one or more affiliates via the public communication network, a virtual tour template on one or more memory areas, said virtual tour template providing a framework for affiliates to input photographs and a data set to create a virtual tour (col.3, lines 12-22, "... publishing tours which conform that format..."; col.21, lines 37, "The camera ...data is transmitted to the service bureau...");

- receiving from the affiliate via the public communications network, at least one movable photograph of part or all of the property, and storing the at least one movable photograph in one or more memory areas such that it is available to be dynamically

retrieved by the virtual tour template and thereby included as part of the virtual tour (col.3, line 34, "A website is provided with a database having a plurality of pictorial tours" shows the storage in memory; col.21, lines 37+ shows the use of public network for upload.);

- receiving from the affiliate via the public communications network, the data set corresponding to the movable photograph, and storing the data set in the one or more memory areas such that it is available to be dynamically retrieved by the virtual tour template and thereby included as part of the virtual tour (col.3, lines 11-14 disclose the standard tour format, i.e., template, used for the virtual tours.); and

- making available to one or more clients via the public communications network, the virtual tour dynamically utilizing the at least one movable photograph and the data set in the virtual tour template (col.3, lines 12-22, "... publishing tours which conform that format...").

Furthermore, Jones discloses that the well known "IPIX (col.8, line 51)" technology is used for the virtual tours. However, Jones does not explicitly disclose that the virtual tour is a virtual tour of a real estate property. Nevertheless, Realtor.com, which is an Internet real estate marketing website, teaches that IPIX was employed to provide a real estate virtual tour (see page 10, last paragraph, "Who is iPIX?"). Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to have utilizes the Jones' virtual systems using IPIX to the Realtor.com, since Realtor.com explicitly taught the use of IPIX's technology for the real estate virtual tours and pointed out the advantages of using virtual tours for real estate marketing.

Furthermore, Realtor.com taught the use of predefined templates to arrange the photos and virtual tours of a property (see Page 5). However, Realtor.com and Jones do not teach dynamically retrieving the movable photograph of the property by the virtual tour template and thereby included as part of the virtual tour. The missing feature is taught by the prior art of Sutcliffe. Sutcliffe teaches a web site creation system which allows the remote user to create a web page by uploading resources including visual images. In the prior art, Sutcliffe teaches selecting a template and using the template to unload the images remotely to create the layout of the page desired (col.9, lines 25-30). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to have incorporated the Sutcliffe's use of template based image resource uploading into Jones and Realtor.com, since Realtor.com explicitly disclosed that the virtual web tours are based on specific layout templates (see page 5), and also Jones pointed out that specific virtual tour formats are used in the displays.

As per dependent claim 2, which depends on claim 1, Jones teaches that the virtual tour is made available via the public communications network, as a link from a website of the affiliate (since Jones teaches the use of a service bureau (col.3, line 3) and Realtor.com uses the IPIX service (page 10)).

As per dependent claim 3, which depends on claim 1, Realtor.com teaches the step of returning the client viewing the virtual tour to the website of the affiliate upon conclusion of the virtual tour since Realtor.com provides a plurality of pages of content per real property (see page 8), which allows the user to returning to the previous page

after the virtual tour is over.

As per dependent claim 4, which depends on claim 1, Realtor.com teaches

- receiving from the one or more affiliates via the public communications a network at least one still photograph of the real property unit, and storing the at least one still photograph in the one or more memory areas such that the still photograph is available to be included in the virtual tour (see page 8); and

- making available to one or more clients via the public communications network, the virtual tour which also dynamically includes the at least one still photograph in the virtual tour template as part of the virtual tour (see the figures on page 5).

As per dependent claim 5, which depends on claim 4, Jones teaches the step of providing a brochure template of the real property unit on the one or more memory areas, the brochure template utilizing the at least one still photograph and data from the first data set, to create an electronic real property unit brochure (see pages 5 and 8 for the example brochures).

Claims 6-9, 11 and 12 recite substantially similar limitations as those in claims 1-5, and are similarly rejected under the same rationale.

As per dependent claim 10, although Jones and Realtor.com do not explicitly disclose displaying the data input template and the displaying of the photo input window being contained on the same screen display. Nevertheless, Sutcliffe teaches the use of a same screen display that shows both the template and the photo input window (see FIG.4A). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to have incorporated Sutcliffe's teaching into Jones

and Realtors, since a person of ordinary skill in the art would have appreciated the wysiwyg advantages of Sutcliffe.

As per dependent claims 13-16, the prior art of combination discloses the use of the movable photographs in the virtual tours. Furthermore, the use of the memory to store such photographs is inherently shown, since any data displayed must be stored in a some form of a memory in the computer system so that they can be retrieved.

### ***Response to Arguments***

Applicant's arguments filed 11/16/03 have been fully considered but they are not persuasive.

On pages 11 and 12 of the amendment, Applicant argues that the Jone's references ('353 patent) does not teach that "an affiliate entry of data into the template, but instead it is transmitted to the service bureau (by mail or electronically) for the service bureau to then input into the template and create it themselves." In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In this case, it appears that the Applicant asserts that the word "affiliate" must be treated in a special way. However, the claim does not specify what criteria the user must have in order to be treated as an "affiliate."



As well understood in the art, any user who is authorized to use the Jone's system to input data and to create web pages is clearly an affiliate to the system.

Furthermore, in response to applicant's arguments against the references individually on page 12, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). It is the combination of the teachings of the prior art references, Jones, Realtor.com and Sutcliffe et al., as a whole, that the analysis was made to show that the claimed features would have been obvious to a person of ordinary skill in the art at the time of the invention.

### ***Conclusion***


**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen S. Hong whose telephone number is (703) 308-5465. The examiner can normally be reached on Monday to Friday, 9:00am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (703) 308-5186. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-9051 for regular communications and (703) 308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Stephen Hong  
Primary Examiner  
January 12, 2004